

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's amended claim 1 recites "non-synchronously with" this is not sufficiently explained in the specification. Applicant does disclose "second rotating element is rotatable independently of all the other second rotating elements" in the specifications. However, "rotatable independently" does not mean "non-synchronously" and therefore, new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to what applicant means by stating "non-synchronously with..." While applicant describes a "second rotating element is rotatable independently of all

the other second rotating elements," there is not further explanation of what a "non-synchronously" motion is. Therefore, it is indefinite as to what applicant intends to claim by stating "non-synchronously".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by David M. Durlach U.S. Patent 5,562,459 (Durlach).

1. Regarding claim 1, Durlach discloses an apparatus for creating a number of display images that comprises a first rotating element (Figure 2 Element 13) provided with a plurality of mounting means (Figure 3-D Elements 33, 23, 38) rotatably carrying one or more second rotating elements (Figure 1 Elements bearing face 11 and 18) each provided with a number of display surfaces, in which the mounting means are arranged such that they define a shape with substantially straight edges (Figure 1), and in which two or more second rotating elements can combine to create a changeable display surface substantially parallel to each substantially straight edge of the shape, and in which second rotating element is rotatable independently of all the other second rotating elements (Column 5 Lines 51-60).

2. Regarding claim 25, Meijer discloses an apparatus in which the first rotating element is mounted on a support member, which passes through the centre (Figure 7 Element 20), and in which the support member and or each second rotating element and or the arrangement of the second rotating elements, are adapted to prevent the support member fouling the second rotating elements in use.

Allowable Subject Matter

Claim 2 is allowed.

Claims 3-9, 24 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, see Page 7, filed March 17, 2008, with respect to the rejection(s) of claim(s) 1 and 25 under USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Durlach '459.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHIN KIM whose telephone number is (571)272-7788. The examiner can normally be reached on (Monday - Friday) (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

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/Shin Kim/
Examiner, Art Unit 3611

/Lesley D. Morris/
Supervisory Patent Examiner, Art Unit 3611